

**IN THE COURT OF Munsiff No. 1 cum JMFC,
Nalbari**

Present: Dr. Nabanita Kalita

(Date of Judgment)
23.09.2022

PRC Case No. 1204/2019

(Details of FIR/Crime and Police Station)

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|----------------|---|
| COMPLAINANT: | STATE OF_ASSAM |
| REPRESENTED BY | SMTI. PRITIMA DEVI, APP. |
| ACCUSED | PRANJAL TALUKDAR |
| REPRESENTED BY | SAMINDRA KALITA, DIPALI BARUA, ADVOCATES |

| | |
|--------------------------------------|------------|
| Date of Offence | 18.06.2019 |
| Date of FIR | 19.06.2019 |
| Date of Charge sheet | 24.06.2019 |
| Date of Framing of Charge | 09.09.2022 |
| Date of commencement of evidence | 23.09.2022 |
| Date on which judgment is reserved | NIL |
| Date of Judgment | 23.09.2022 |
| Date of the Sentencing Order, if any | NIL |

Accused Details:

| Rank of the Accused | Name of Accused | Date of Arrest | Date of Released on Bail | Offences charged with | Whether Acquitted or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of Sec 428 Cr.P.C |
|---------------------|------------------|----------------|--------------------------|-----------------------|--------------------------------|------------------|--|
| A-1 | Pranjal Talukdar | 22.06.2019 | 22.06.2019 | 498(A) 323/506 IPC | Acquitted | N/A | N/A |

JUDGMENT

1. The case of the prosecution in a nutshell is that accused Pranjal Talukdar is the husband of the informant. Informant's marriage with the accused was solemnized about 5 years ago and out of their wedlock, one male child was born and his name is Koushik Talukdar. It is alleged that since after the marriage, the accused used to torture the informant demanding dowry. The accused drinks alcohol. It is also alleged that on 18.6.2019 at about 7 pm accused went to the house of the informant and demanded dowry and threatened them. At night at about 9 pm accused assaulted the informant and caused pain in the body. Besides this accused also assaulted informant's parents and brothers. It is further alleged that accused also threatened to kill

informant's son. At present also, accused is threatening the family of the informant with dire consequences. Hence, this case.

2. On receipt of the FIR, police of Nalbari PS registered the same as Nalbari PS Case no. 395/19 under Section 498(A)/323/506 IPC against the accused person and conducted investigation into the matter.

3. On completion of the investigation, the police submitted Charge sheet against the accused person namely Pranjal Talukdar under Section 498(A)/323/506 IPC.

4. The accused person entered their appearance in response to the process issued. Copies of relevant documents were furnished to the accused person in accordance with section 207 Criminal Procedure Code.

5. Charge under section 498(A)/323/506 of IPC is framed and same is read over and explained to the accused person to which he pleaded not guilty and claimed to be tried.

6. During trial, the prosecution examined 1 (one) witnesses. Thereafter, on prayer of the Id. APP, prosecution evidence has been closed as according to the opinion of the Id. APP calling other witnesses will not improve the case.

7. The statement of defence of the accused person has been dispensed with due to lack of incriminating materials against him. Defence declined to adduce DW evidence.

POINTS FOR DETERMINATION

- i) Whether accused person being the husband of the informant since after the day of her marriage subjected her with cruelty to coerce her to meet the unlawful demand of dowry and thereby committed an offence punishable under section 498(A) IPC?
- ii) Whether accused person on 18.06.2019 at about 9 am voluntarily caused hurt to the informant and thereby committed an offence punishable under section 323 IPC?
- iii) Whether accused person on same date and time criminally intimidated the informant's parents and and thereby committed an offence punishable under section 506 IPC?

8. I have heard the learned counsel for both sides and have gone through the case record.

EVIDENCE ON RECORD

9. PW 1 Rimpi Talukdar is the informant of this case. She deposed in her examination-in-chief that she lodged this case against her husband. PW 1 stated that she had married with Pranjal Talukdar about 7 years ago. After the marriage, she stayed at her husband's house. They have one male child

and at present, he is 6 years old. PW 1 stated that after birth of the male child, conflict of opinion took place with the husband regarding family matter. She went to her mother's house and lodged case due to misunderstanding. But after some days, she understood the misunderstanding and came back to matrimonial house. At present, she is staying in her husband's house affectionately. PW 1 further stated that she has no allegation against the husband. As such, she does not want to proceed with the case. Ext. P1/PW 1 is ejahar. Ext. P1(1)/PW 1 is her signature.

10. During cross examination, she stated that she has objection if accused person is acquitted in this case.

DISCUSSION, DECISION AND REASONS THEREOF

11. Now let me discuss the above formulated points on the basis of the evidence available on record. All the points are taken up together as they are intertwined. After going through the evidence of PWs, it transpires that the witnesses have derailed from the allegations set forth in the FIR. From the deposition of the PW 1 it is seen that she has stated nothing incriminating against the accused person in her evidence rather she deposed that she lodged the FIR out of misunderstanding occurred because of the difference of opinion relating to family matter.

Now she is staying at her husband's house affectionately. PW 1 further stated that at present there is no controversy between them. She has no allegation against the accused person. She also expressed her unwillingness to proceed with the case. Moreover PW1 in her cross examination has stated that she has no objection if the accused person is acquitted in this case. Since the PW 1 who is victim and informant, being the most vital witness did not implicate the accused person to the alleged crime, I do not find any force in the prosecution case to hold the accused guilty of the alleged crime.

12. Now it is the burden of the prosecution to establish the guilt of the accused person. From the evidence of the prosecution witnesses, it appears that the witnesses have not adduced any evidence to hold the accused person guilty under the alleged sections of IPC. Due to insufficient evidence on the part of the prosecution side, it is a fit case in my view to acquit the accused person from the charges levelled against him. Hence, the accused person deserve acquittal.

13. Considering the above, I came to the safe conclusion that, the prosecution has failed to prove the charge under Section 498(A)/323/506 of The Indian Penal Code against the accused person viz., Pranjal Talukdar beyond reasonable doubt.

As such, the points for determination are answered in negative and in favour of the accused person.

ORDER

In view of the discussion made above and the decisions reached in the foregoing points for determination, it is held that the prosecution failed to prove beyond reasonable doubt that the accused person had committed the offence under Section 498(A)/323/506 IPC. As such, the accused person namely Pranjal Talukdar is acquitted of the charge under Section 498(A)/323/506 IPC and set at liberty forthwith.

The bail bond of the accused person and his surety shall remain in force for a period of six months from today in compliance with section 437(A) Criminal Procedure Code.

Case is disposed of on contest.

Given under my hand and seal of this court on this 23rd day of September, 2022 at Nalbari, Assam.

(DR. NABANITA KALITA)
Judicial Magistrate, 1st Class,
Nalbari.

APPENDIX**LIST OF PROSECUTION/ DEFENCE / COURT WITNESSES****A. Prosecution:-**

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|----------------|--|
| PW 1 | Rimpi Talukdar | Informant |

B. Defence Witnesses, if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--|
| DW1 | NIL | N/A |

C. Court Witnesses, if any:

| RANK | NAME | NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--|
| CW1 | NIL | N/A |

**LIST OF PROSECUTION/ DEFENCE /
COURT EXIBITS**

A. Prosecution:

| Sr. No | Exhibit Number | Description |
|---------------|-----------------------|--------------------|
| 1 | P.Ext-1/PW1 | Ejahaar |
| 2 | P.Ext-11/PW1 | Signature of PW 1 |

B. Defence:

| Sr. No | Exhibit Number | Description |
|---------------|-----------------------|--------------------|
| 1 | Exhibit D1/ DW1 | NIL |

C. Court Exhibits:

| Sr. No | Exhibit Number | Description |
|---------------|-----------------------|--------------------|
| 1 | Exhibit C1/ CW1 | NIL |

D. Material Objects:

| Sr. No | Exhibit Number | Description |
|---------------|-----------------------|--------------------|
| 1 | MO1 | NIL |

DR. NABANITA KALITA)
Judicial Magistrate 1st Class,
Nalbari.